

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BOOKER T. SHIPP,

Plaintiff,

v.

ORDER

KENNETH LOBENSTEIN,
DANIEL WINKLESKI, and ROSLYN HUNEKE,

21-cv-167-jdp

Defendants.

Plaintiff Booker T. Shipp alleged that prison staff knowingly exposed him to COVID-19 by quarantining him with his cellmate who had tested positive. I granted defendants' motion for summary judgment on Shipp's Eighth Amendment claims because the record showed that defendants considered the risks to inmates and made quarantine decisions after relying on guidance from Department of Corrections medical supervisors. *See* Dkt. 41. Now Shipp has filed a notice of appeal and a motion for leave to proceed in forma pauperis on appeal. Dkt. 45 and Dkt. 49.

I will grant Shipp's motion for in forma pauperis status on appeal: Shipp's trust fund account statement shows that he is indigent and I do not find any other reason to deny his motion. Under 28 U.S.C. § 1915(b)(1), Shipp must make an initial partial payment of the appellate fee, which the court has calculated as \$471.27. If necessary, he may arrange with prison authorities to pay some or all of this amount from his release account. If he fails to make the required payment by the deadline set below, the appeal may be dismissed.

Shipp has also filed a motion directing prison staff to allow him to pay the entire \$505 appellate filing fee with funds from his release savings account. Dkt. 50. But with the exception of initial partial payments of filing fees, this court does not have the authority to tell state

officials whether a prisoner should be able to withdraw money from a release account. *See Carter v. Bennett*, 399 F. Supp. 2d 936, 936–37 (W.D. Wis. 2005). So I will deny Shipp’s motion to use release account funds to pay off the remaining balance of his filing fee; that amount will be paid off in monthly installments under 28 U.S.C. § 1915(b)(2).

ORDER

IT IS ORDERED that:

1. Plaintiff Booker T. Shipp’s motion for leave to proceed in forma pauperis on appeal, Dkt. 49, is GRANTED.
2. Plaintiff’s motion to pay the entire appellate filing fee with release account funds, Dkt. 50, is DENIED.
3. Plaintiff may have until August 15, 2022, to submit a check or money order made payable to the Clerk of Court in the amount of \$471.27 as an initial partial payment for his appeal. After that, plaintiff must pay the remainder of the \$505 appellate fee in monthly installments under 28 U.S.C. § 1915(b)(2). If plaintiff does not have enough money to make the initial partial payment from his regular account, he should arrange with prison authorities to pay the remainder from his release account.

Entered July 25, 2022.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge